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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional)
		677-18
Application Number	Filed	
09/673,106	November 28, 2000	
First Named Inventor		
Grieu		
Art Unit	Examiner	
2131	A. Moorthy	
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the <input type="checkbox"/> Applicant/Inventor <input type="checkbox"/> Assignee of record of the entire interest. See 37 C.F.R. § 3.71. Statement under 37 C.F.R. § 3.73(b) is enclosed. (Form PTO/SB/96) <input checked="" type="checkbox"/> Attorney or agent of record 27,393 (Reg. No.) <input type="checkbox"/> Attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 C.F.R. § 1.34 _____</p> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.*</p> <p><input checked="" type="checkbox"/> *Total of 1 form/s are submitted.</p>		

  
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September 28, 2005  
Date

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**STATEMENT OF ARGUMENTS IN SUPPORT OF  
PRE-APPEAL BRIEF REQUEST FOR REVIEW**

The following listing of clear error in the Examiner's rejection is responsive to the Final Rejection mailed June 28, 2005 and is set out in correspondence with the errors as they exist chronologically in the Final Rejection.

The Court of Appeals for the Federal Circuit has noted in the case of *Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick*, 221 USPQ 481, 485 (Fed. Cir. 1984) that "[a]nticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim."

**1. The prior art contains no disclosure of Applicants' claimed "modifying the contents of the card memory by provisionally recording in the card memory" step**

Independent claim 1 specifies a method for modifying the content of the non-volatile memory of a contactless microcircuit card where that card is temporarily coupled to a terminal (such as a debit card). In the past, problems have arisen where the card is removed from the terminal in the middle of an operation, where the problem is either a purchase is made without the card being properly debited or where the card is debited, but no purchased product is actually delivered.

Applicants' solve that problem by having two steps executed by the card itself (thereby preventing card removal from interrupting the operation) i.e., provisionally recording in the card memory the items of information without losing the prior values of the items of information. Applicants have previously noted that independent claim 1 is a method with "the card executing the steps" (a) and (b). Applicants also previously noted that claim 1 requires that the card accomplish the "provisionally recording" step in the card memory "without losing prior values."

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Applicants also pointed out in the last Amendment that in Drupsteen, the terminal, not the card, is specifically required to issue the transfer commands. In the last Amendment, page 8, the Examiner's attention was directed to a portion of Drupsteen, the paragraph bridging columns 5 and 6, which teaches that

"the last sequence number S and/or the counter T can be used to undo the effect of the transfer commands which were processed. In order to undue the transfer commands of the failed series, a new series of commands may be provided which have the effect of deleting or undoing the results of the first series."

Thus, Drupsteen specifically requires that the terminal and not the card, reissues the transfer commands and thus teaches away from the present invention.

Thus, the Drupsteen reference specifically teaches that the terminal, and not the card, does the recording of transfer commands, nor is there any indication that the terminal provisionally records the new information while at the same time keeping the old information. The cited portion of Drupsteen seems to indicate that the terminal records over the old information, but that the terminal can somehow issue a new command which has the effect of deleting or undoing the new command. Again, the steps in Drupsteen are accomplished by the terminal and not the card and thus would suffer from the same prior art problems caused by an incomplete transaction, i.e., the card being removed prior to completion of all transaction parameters.

The Examiner has not specifically indicated where or how Drupsteen teaches Applicants' claim 1 step a), i.e., "modifying the contents of the card memory by provisionally recording in the card memory each of said interdependent items of information without losing prior values corresponding to said items." Unless the Examiner can show how and where Drupsteen or any

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of the non-cited prior art references teaches this specific step, the rejection of claim 1 and claims dependent thereon under 35 USC §102 and/or §103 clearly fails.

**2. The prior art contains no disclosure of a "finalizing" step by the sub-step of "one of confirming all of the modifications and by discarding all of the modifications"**

In addition to containing no disclosure of the "modifying" step set out above, Drupsteen fails to disclose Applicants' claimed "finalizing" step. Firstly, the "finalizing" step is accomplished by the card, rather than the terminal and Drupsteen specifically teaches in the paragraph quoted above that it is the terminal which issues the commands.

Moreover, Applicants' claim 1 step "b)" requires that the finalizing of the modifications be accomplished by one of two substeps, either "confirming all of the modifications" or "by discarding all of the modifications." In claim 1, only when all transaction components are complete does the card confirm all of the modifications. If the card is removed or disconnected prior to completion of all tasks, it will discard all modifications and not release the desired product (in the case of a debit card application).

Again, the Examiner was asked where Drupsteen contains any teaching of the card executing the step of "finalizing" by either "confirming" or "discarding." In fact, it was pointed out that in the Drupsteen reference it is the terminal, as is well known in the prior art, which takes the action and not the card. There is simply no recognition or disclosure of the card performing a "finalizing" step or with the card performing a finalizing step by taking only one of two actions, i.e., "confirming" or "discarding."

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Again, should the Examiner believe this to be disclosed in Drupsteen, he is respectfully requested to point out where or how he believes Drupsteen teaches a card executing the step of "finalizing."

### SUMMARY

In a rejection of claim 1 under 35 USC §102, the Examiner alleges that Drupsteen teaches each of Applicants' claimed method steps. However, the Examiner has failed to indicate how or where Drupsteen teaches the card executing the step of "modifying" the memory by a provisional recording "without losing prior values." The Examiner has failed to indicate how or where Drupsteen teaches the card executing the step of "finalizing" by only one of "confirming" or "discarding" the modifications. Applicants contend that the Drupsteen reference contains no disclosure of either of the method steps set out in independent claim 1. As a result, Drupsteen cannot support a rejection of independent claim 1 under §102 or §103. The Examiner has not alleged that any other cited prior art reference contains the disclosures missing from the Drupsteen reference. Therefore, the obviousness rejections of claims dependent claim 1 also fail. As a result, there is simply no support for any rejection of the independent claim 1 or claims dependent thereon under 35 USC §102 or §103.

Applicants respectfully request that the Pre-Appeal Brief Review Panel find that the application is allowed on the existing claims and that prosecution should be closed.

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Respectfully submitted,

NIXON & VANDERHYE P.C.

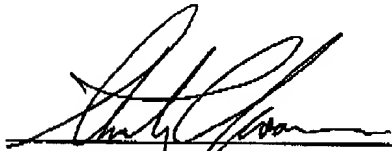
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**CERTIFICATION OF FACSIMILE TRANSMISSION**

I hereby certify that this paper is being facsimile transmitted to the Patent and Trademark Office on the date shown below.

  
Stanley C. Spooner  
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9/28/05  
Date